

NAME: Ronald Tucker (39032-053)	<div style="text-align: right;"> <p>① 10/11/00 TA</p> <p>1: CV 00-1780</p> </div>
ADDRESS: F.C.I. Allenwood P.O. Box 2000 White Deer, Pa 17887	
or PLACE OF CONFINEMENT & PRISON NUMBER <i>Note: If represented by an attorney, his name, address & telephone number</i> <i>Note: It is your responsibility to notify the Clerk of the Court, in writing of any change of address</i>	
<p><i>United States District Court</i> MIDDLE DISTRICT OF PENNSYLVANIA FILED SCRANTON</p>	
Ronald Tucker FULL NAME: (Include name under which you were convicted) <i>Petitioner,</i>	OCT 10 2000 CASE NO. <u> </u> PER <u> </u> to be signed by Clerk of the United States District Court)
vs. Michael Zenk, Warden F.C.I. Allenwood, Bureau of Prisons, U.S. Attorney General, U.S. Marshal Service NAME OF WARDEN (or other authorized person having custody of petitioner) <i>Respondent.</i>	PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY 28 U.S.C. § 2241

INSTRUCTIONS - READ CAREFULLY

This petition shall be legibly handwritten or typewritten, signed by the petitioner, under penalty of perjury. You must set forth **CONCISELY** the answer to each question in the proper space on the form. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury.

You must not attach separate pages to this except that **ONE** separate additional page is permitted in answering Question No. 9.

Upon receipt of a fee of \$5.00, your petition will be filed if it is in proper order.

If you are seeking leave to proceed in forma pauperis (without paying the \$5.00 fee and other court costs), then you must also execute the declaration on the last page, setting forth information which establishes your inability to pay the fees and cost of the proceedings or to give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution. If your prison account exceeds \$25.00, you must pay the filing fee as required by the rule of the district court.

When the petition is completed, the *original and two copies* must be mailed to the Clerk of the United States District Court for the Middle District of Pennsylvania
235 N. Washington Ave
P.O. BOX 913
Scranton, Pa. 18501

Only one sentence, conviction or parole matter may be challenged in a single petition. If you challenge more than one, you must do so by separate petitions.

Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

PLEASE COMPLETE THE FOLLOWING: (check appropriate number)

This petition concerns:

1. ☐ a conviction
2. ☒ a sentence
3. ☐ jail or prison conditions
4. ☐ prison discipline
5. ☐ a parole problem
6. ☐ other

PETITION

1. Place of confinement F.C.I. Allenwood, P.O.Box 2000 White Deer, Pa 17887
2. Name and location of court which imposed sentence United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn New York 11201
3. The indictment number or numbers (if known) upon which, and the offense or offenses for which, sentence was imposed: 92-CR-91(S-1)(RJD)
 - (a) N/A
 - (b) N/A
 - (c) N/A
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 19, 1995 168 months on Counts one(1), two(2) and nine(9)
 - (b) N/A Five(5) years supervised release
 - (c) N/A
5. Check whether a finding of guilt was made:
 - (a) ☐ After a plea of guilty
 - (b) ☒ After a plea of not guilty
 - (c) ☐ After a plea of nolo contendere
6. If you were found guilty after a plea of not guilty, check whether that finding was made by:
 - (a) ☒ a jury
 - (b) ☐ a judge without jury
7. Did you appeal from the judgment of conviction or the imposition of sentence?

☒ Yes ☐ No
8. If you did appeal, give the following information for each appeal:
 - (a)(1) Name of Court U.S. Court of Appeals for the Second Circuit
 - (2) Result Affirmed in part, reversed and remanded in part
 - (3) Date of Result June 20, 1997
 - (4) Citation or number of opinion U.S. v. Miller 116 F.3d 641 (2nd Cir.1997)

(5) Grounds Raised (*list each*) _____

- (A) (1) The trial court erred in failing to grant appellants motion
 (B) to sever his trial from that of his violent co-defendants.
 (C) (2) The prosecution improperly invoked the court's prestige
 (D) to vouch for its witnesses. (3) Appellant joins in the briefs
 of his co-appellants.

(b)(1) Name of Court United States Supreme Court

(2) Result Certiorari denied

(3) Date of result June 1, 1998

(4) Citation or number opinion 1998 U.S. Lexis 3606, 118 S.Ct 2063 (1998)

(5) Grounds raised (*list each*)

(A) N/A

(B) N/A

(C) N/A

(D) N/A

CAUTION: If you are attacking a sentence imposed under a federal judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court which entered judgment.

9. State *CONCISELY* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, attach a *SINGLE* page only behind this page.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional ground at a later date.

- (a) Ground One After Petitioner was sentenced in federal court, he was
awarded 1,182 days of jail credit toward his federal sentence,
 Supporting *FACTS* (tell your story *BRIEFLY* without citing cases or law).

CAUTION: You must state *facts not conclusions* in support of your grounds. A rule of thumb to follow is - who did exactly what to violate your rights at what time or place.

nearly three years later, 1,332 days of credit were removed from his
sentence computation and Petitioner's sentence was thereby increased.

(GROUND TWO) The Bureau of Prisons, U.S. Attorney General, U.S. Marshal
Service, have effectively violated the principles of comity, by the
erroneous designation of petitioner to a federal facility to begin
service of his federal sentence which has resulted in the miscalculation

Question #9 Cont'd

(GROUND TWO CONT'D)

of Petitioner's sentence computation.

(GROUND THREE)

The Bureau of Prisons' determination of the length of Petitioner's sentence based on the happenstance of Petitioner's sentencing date is simply irrational.

(GROUND FOUR)

The determination by the Bureau of Prisons that Petitioner's sentence be made to run consecutive to his related state sentence violates the double jeopardy clause of the Fifth Amendment.

(GROUND FIVE)

Petitioner has been deprived of liberty without due process when he was removed from a state work release facility, not given the opportunity to be heard for parole from his state sentence, never returned to state custody and not awarded any credit for forty-four month time period (he spent in federal custody pursuant to writ of habeas corpus ad prosequendum) toward his federal sentence.

(GROUND SIX)

Petitioner is being compelled to serve a consecutive sentence for a federal offense that is related to a state conviction that was undischarged at the time of Petitioner's sentencing.

(GROUND SEVEN)

The federal authorities have violated the Interstate Agreement on Detainers Act by abusing the federal writ of habeas corpus ad prosequendum which has resulted in a complete miscarriage of justice to the petitioner

10. Have you ever filed previous petitions for habeas corpus, motions under Section 2255 of Title 28, United States Code, or any other applications, petitions or motions with respect to this conviction?

☒ Yes ☐ No

11. If your answer to Question No. 10 was yes, give the following information:

(a)(1) Name of Court United States District Court Eastern District of New York

(2) Nature of proceedings motion pursuant to 28 U.S.C. §2255

(3) Grounds raised Ineffective assistance of counsel, prosecutorial misconduct, 201(c)(2) bribery of public officials and witnesses, failure of the District Court to apply 5G1.3(b) at sentencing.

(4) Result Request for hearing denied, petition dismissed

(5) Date of Result October 8, 1999

(6) Citation or numbers of any written opinions or orders entered pursuant to each disposition.
98-CV-5322 (See Appendix Exh. T)

(b)(1) Name of Court United States District Court Eastern District of N.Y.

(2) Nature of proceedings Application for Certificate of Appealability §2253

(3) Grounds raised (1) Appellant counsel was ineffective for admittedly overlooking a potentially helpful guideline provision at sentencing
(2) The District Court failed to sentence petitioner to 5G1.3(b)

(4) Result Denied

(5) Date of Result December 27, 1999

(6) Citation or numbers of any written opinions or orders entered pursuant to each disposition.
(See Appendix Exh. U)

12. If you did not file a motion under Section 2255 of Title 28, United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention.

Petitioner cannot challenge the execution of his sentence by way of 28 U.S.C. §2255. Petitioner is not challenging the 168 month sentence that was imposed by the District Court. Petitioner is challenging the removal of the award of jail credit to the sentence after he was sentenced, by the B.O.P. for reasons stated in the attached memorandum of law.

13. Are you presently represented by counsel? ☐ Yes ☒ No

If so, name address and telephone number N/A

Case name and court N/A

14. If you are seeking leave to proceed in *forma pauperis*, have you completed the declaration setting forth the required information?

☐ Yes ☒ No, N/A

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on September 25, 2000
(date)

Ronald Tucker
Signature of Petitioner

Pro Se